

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DANIEL NORCIA, on his own behalf and on  
behalf of all others similarly situated,

Plaintiff,

v.

SAMSUNG TELECOMMUNICATIONS  
AMERICA, LLC, and SAMSUNG  
ELECTRONICS AMERICA, INC.,

Defendants.

Case No. 3:14-cv-00582-JD

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the Plaintiff Daniel Norcia, and Defendants, Samsung Telecommunications America, LLC and Samsung Electronics America, Inc., hereafter referred to as “the parties,” hereby stipulate to and petition the court to enter the following Stipulated Protective Order.<sup>1</sup> The

<sup>1</sup> Effective January 1, 2015, Samsung Telecommunications America, LLC merged with Samsung Electronics America, Inc. Samsung Telecommunications America, LLC no longer exists as a separate corporate entity. As Samsung Electronics America, Inc. is the only surviving entity of the merger, Samsung Electronics America, Inc. agrees to the terms of the protective order on

1 parties acknowledge that this Order does not confer blanket protections on all disclosures or  
2 responses to discovery and that the protection it affords from public disclosure and use extends  
3 only to the limited information or items that are entitled to confidential treatment under the  
4 applicable legal principles. The parties further acknowledge, as set forth in Section 12.4, below,  
5 that this Stipulated Protective Order does not entitle them to file confidential information under  
6 seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that  
7 will be applied when a party seeks permission from the Court to file material under seal.

8 **2. DEFINITIONS**

9 2.1 Challenging Party: a Party or Non-Party that challenges the designation of  
10 information or items under this Order.

11 2.2 "CONFIDENTIAL" Information or Items: information (regardless of how it is  
12 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule  
13 of Civil Procedure 26(c).

14 2.3 Counsel: Outside Counsel of Record and House Counsel (as well as their support  
15 staff).

16 2.4 Designating Party: a Party or Non-Party that designates information or items that  
17 it produces in disclosures or in responses to discovery as "CONFIDENTIAL" or "HIGHLY  
18 CONFIDENTIAL – ATTORNEYS' EYES ONLY."

19 2.5 Disclosure or Discovery Material: all items or information, regardless of the  
20 medium or manner in which it is generated, stored, or maintained (including, among other things,  
21 testimony, transcripts, and tangible things), that are produced or generated in disclosures or  
22 responses to discovery in this matter.

23 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to  
24 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or  
25 as a consultant in this action, (2) is not a past or current employee of a Party or of a Party's  
26 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party

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28 \_\_\_\_\_  
behalf of both Defendants.

1 or of a Party's competitor.

2 2.7 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or  
3 Items: extremely sensitive "Confidential Information or Items," disclosure of which to another  
4 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by  
5 less restrictive means.

6 2.8 House Counsel: attorneys (as well as their support staff) who are employees of a  
7 party to this action. House Counsel does not include Outside Counsel of Record or any other  
8 outside counsel.

9 2.9 Non-Party: any natural person, partnership, corporation, association, or other legal  
10 entity not named as a Party to this action.

11 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this  
12 action but are retained to represent or advise a party to this action and have appeared in this action  
13 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

14 2.11 Party: Plaintiff Daniel Norcia, and Defendants, Samsung Telecommunications  
15 America, LLC and Samsung Electronics America, Inc., including all of its officers, directors,  
16 employees, consultants, retained experts, and Outside Counsel of Record (and their support  
17 staffs).

18 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
19 Material in this action.

20 2.13 Professional Vendors: persons or entities that provide litigation support services  
21 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and  
22 organizing, storing, or retrieving data in any form or medium) and their employees and  
23 subcontractors.

24 2.14 Protected Material: any Disclosure or Discovery Material that is designated as  
25 "CONFIDENTIAL," or as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

26 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a  
27 Producing Party.  
28

1     3.     SCOPE

2             The protections conferred by this Stipulation and Order cover not only Protected Material  
 3 (as defined above), but also (1) any information copied or extracted from Protected Material;  
 4 (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,  
 5 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.  
 6 However, the protections conferred by this Stipulation and Order do not cover the following  
 7 information: (a) any information that is in the public domain at the time of disclosure to a  
 8 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as  
 9 a result of publication not involving a violation of this Order, including becoming part of the  
 10 public record through trial or otherwise; and (b) any information known to the Receiving Party  
 11 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who  
 12 obtained the information lawfully and under no obligation of confidentiality to the Designating  
 13 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

14     4.     DURATION

15             Even after final disposition of this litigation, the confidentiality obligations imposed by  
 16 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court  
 17 order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all  
 18 claims and defenses in this action, with or without prejudice; and (2) final judgment herein after  
 19 the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,  
 20 including the time limits for filing any motions or applications for extension of time pursuant to  
 21 applicable law.

22     5.     DESIGNATING PROTECTED MATERIAL

23             5.1     Exercise of Restraint and Care in Designating Material for Protection. Each Party  
 24 or Non-Party that designates information or items for protection under this Order must take care  
 25 to limit any such designation to specific material that qualifies under the appropriate standards.  
 26 To the extent that it is practical to do so, the Designating Party must designate. for protection  
 27 only, those parts of material, documents, items, or oral or written communications that qualify –  
 28 so that other portions of the material, documents, items, or communications, for which protection

1 is not warranted, are not swept unjustifiably within the ambit of this Order.

2 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
3 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to  
4 unnecessarily encumber or retard the case development process or to impose unnecessary  
5 expenses and burdens on other parties) expose the Designating Party to sanctions.

6 If it comes to a Designating Party's attention that information or items that it designated  
7 for protection do not qualify for protection at all or do not qualify for the level of protection  
8 initially asserted, that Designating Party must promptly notify all other parties that it is  
9 withdrawing the mistaken designation.

10 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order  
11 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,  
12 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so  
13 designated before the material is disclosed or produced.

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or electronic documents, but  
16 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing  
17 Party affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'  
18 EYES ONLY" to each page that contains protected material or in a manner that reasonably  
19 conveys that the conveys the designation (including, by way of example, in the file name). If  
20 only a portion or portions of the material on a page qualifies for protection, the Producing Party  
21 also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the  
22 margins) and must specify, for each portion, the level of protection being asserted.

23 A Party or Non-Party that makes original documents or materials available for inspection  
24 need not designate them for protection until after the inspecting Party has indicated which  
25 material it would like copied and produced. During the inspection and before the designation, all  
26 of the material made available for inspection shall be deemed "HIGHLY CONFIDENTIAL –  
27 ATTORNEYS' EYES ONLY." After the inspecting Party has identified the documents it wants  
28 copied and produced, the Producing Party must determine which documents, or portions thereof,

1 qualify for protection under this Order. Then, before producing the specified documents, the  
2 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY  
3 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) to each page that contains Protected  
4 Material. If only a portion or portions of the material on a page qualifies for protection, the  
5 Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate  
6 markings in the margins) and must specify, for each portion, the level of protection being  
7 asserted.

8 (b) for testimony given in deposition or in other pretrial or trial proceedings, that  
9 the Designating Party identify on the record, before the close of the deposition, hearing, or other  
10 proceeding, all protected testimony and specify the level of protection being asserted or that the  
11 Designating Party do so within one week (seven days) of the offered testimony. When it is  
12 impractical to identify separately each portion of testimony that is entitled to protection and it  
13 appears that substantial portions of the testimony may qualify for protection, the Designating  
14 Party may invoke on the record (before the deposition, hearing, or other proceeding is concluded)  
15 a right to have up to 21 days to identify the specific portions of the testimony as to which  
16 protection is sought and to specify the level of protection being asserted. Only those portions of  
17 the testimony that are appropriately designated for protection within the 21 days shall be covered  
18 by the provisions of this Stipulated Protective Order. Alternatively, a Designating Party may  
19 specify, at the deposition or up to 21 days afterwards if that period is properly invoked, that the  
20 entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
21 ATTORNEYS’ EYES ONLY.”

22 Parties shall give the other parties notice if they reasonably expect a deposition, hearing,  
23 or other proceeding to include Protected Material so that the other parties can ensure that only  
24 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”  
25 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition  
26 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY  
27 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

28 Transcripts containing Protected Material shall have an obvious legend on the title page

that the transcript contains Protected Material, and the title page shall be followed by a list of all pages (including line numbers as appropriate) that have been designated as Protected Material and the level of protection being asserted by the Designating Party. The Designating Party shall inform the court reporter of these requirements. Any transcript that is prepared before the expiration of a 21-day period for designation shall be treated during that period as if it had been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After the expiration of that period, the transcript shall be treated only as actually designated.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only a portion or portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portion(s) and specify the level of protection being asserted.

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

## 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by providing written notice of each designation it is challenging and describing the basis

1 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written  
2 notice must recite that the challenge to confidentiality is being made in accordance with this  
3 specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in  
4 good faith and must begin the process by conferring directly (in voice to voice dialogue; other  
5 forms of communication are not sufficient) within 14 days of the date of service of notice. In  
6 conferring, the Challenging Party must explain the basis for its belief that the confidentiality  
7 designation was not proper and must give the Designating Party an opportunity to review the  
8 designated material, to reconsider the circumstances, and, if no change in designation is offered,  
9 to explain the basis for the chosen designation. A Challenging Party may proceed to the next  
10 stage of the challenge process only if it has engaged in this meet and confer process first or  
11 establishes that the Designating Party is unwilling to participate in the meet and confer process in  
12 a timely manner.

13       6.3     Judicial Intervention. If the Parties cannot resolve a challenge without court  
14 intervention, the Designating Party shall file and serve a motion to retain confidentiality under  
15 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21 days  
16 of the initial notice of challenge or within 14 days of the parties agreeing that the meet and confer  
17 process will not resolve their dispute, whichever is earlier. Each such motion must be  
18 accompanied by a competent declaration affirming that the movant has complied with the meet  
19 and confer requirements imposed in the preceding paragraph. Failure by the Designating Party to  
20 make such a motion including the required declaration within 21 days (or 14 days, if applicable)  
21 shall automatically waive the confidentiality designation for each challenged designation. In  
22 addition, the Challenging Party may file a motion challenging a confidentiality designation at any  
23 time if there is good cause for doing so, including a challenge to the designation of a deposition  
24 transcript or any portions thereof. Any motion brought pursuant to this provision must be  
25 accompanied by a competent declaration affirming that the movant has complied with the meet  
26 and confer requirements imposed by the preceding paragraph.

27       The burden of persuasion in any such challenge proceeding shall be on the Designating  
28 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose



unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived the confidentiality designation by failing to file a motion to retain confidentiality as described above, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the litigation has been terminated, a Receiving Party must comply with the provisions of section 14 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

(a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

(a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A;

(b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a), below, have been followed;

(c) the court and its personnel;

(d) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

(e) the author or recipient of a document containing the information or a custodian

1 or other person who otherwise possessed or knew the information.

2 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY  
 3 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Experts.

4 (a) Unless otherwise ordered by the court or agreed to in writing by the  
 5 Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any  
 6 information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’  
 7 EYES ONLY” pursuant to paragraph 7.3(b) first must make a written request to the Designating  
 8 Party that (1) identifies the general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’  
 9 EYES ONLY” information that the Receiving Party seeks permission to disclose to the Expert,  
 10 (2) sets forth the full name of the Expert and the city and state of his or her primary residence,  
 11 (3) attaches a copy of the Expert’s current resume, (4) identifies the Expert’s current employer(s),  
 12 (5) identifies each person or entity from whom the Expert has received compensation or funding  
 13 for work in his or her areas of expertise or to whom the expert has provided professional services,  
 14 including in connection with a litigation, at any time during the preceding five years,<sup>2</sup> and  
 15 (6) identifies (by name and number of the case, filing date, and location of court) any litigation in  
 16 connection with which the Expert has offered expert testimony, including through a declaration,  
 17 report, or testimony at a deposition or trial, during the preceding five years.

18 (b) A Party that makes a request and provides the information specified in the  
 19 preceding respective paragraphs may disclose the subject Protected Material to the identified  
 20 Expert unless, within 14 days of delivering the request, the Party receives a written objection  
 21 from the Designating Party. Any such objection must set forth in detail the grounds on which it is  
 22 based.

23 (c) A Party that receives a timely written objection must meet and confer with the  
 24 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by  
 25 agreement within seven days of the written objection. If no agreement is reached, the Party

26 \_\_\_\_\_  
 27 <sup>2</sup> If the Expert believes any of this information is subject to a confidentiality obligation to a third-  
 28 party, then the Expert should provide whatever information the Expert believes can be disclosed  
 without violating any confidentiality agreements, and the Party seeking to disclose to the Expert  
 shall be available to meet and confer with the Designating Party regarding any such engagement.

1 seeking to make the disclosure to the Expert may file a motion as provided in Civil Local Rule 7  
 2 (and in compliance with Civil Local Rule 79-5, if applicable) seeking permission from the court  
 3 to do so. Any such motion must describe the circumstances with specificity, set forth in detail the  
 4 reasons why the disclosure to the Expert is reasonably necessary, assess the risk of harm that the  
 5 disclosure would entail, and suggest any additional means that could be used to reduce that risk.  
 6 In addition, any such motion must be accompanied by a competent declaration describing the  
 7 parties' efforts to resolve the matter by agreement (i.e., the extent and the content of the meet and  
 8 confer discussions) and setting forth the reasons advanced by the Designating Party for its refusal  
 9 to approve the disclosure.

10 In any such proceeding, the Party opposing disclosure to the Expert shall bear the burden  
 11 of proving that the risk of harm that the disclosure would entail (under the safeguards proposed)  
 12 outweighs the Receiving Party's need to disclose the Protected Material to its Expert.

13 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
 14 LITIGATION

15 If a Party is served with a subpoena or a court order issued in other litigation that  
 16 compels disclosure of any information or items designated in this action as "CONFIDENTIAL"  
 17 or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party must:

18 (a) promptly notify in writing the Designating Party. Such notification shall  
 19 include a copy of the subpoena or court order;

20 (b) promptly notify in writing the party who caused the subpoena or order to issue  
 21 in the other litigation that some or all of the material covered by the subpoena or order is subject  
 22 to this Protective Order. Such notification shall include a copy of this Stipulated Protective  
 23 Order; and

24 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
 25 Designating Party whose Protected Material may be affected.

26 If the Designating Party timely seeks a protective order, the Party served with the  
 27 subpoena or court order shall not produce any information designated in this action as  
 28 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a

determination by the court from which the subpoena or order is issued, unless the Party has obtained the Designating Party's permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material – and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party

1 before a determination by the court. Absent a court order to the contrary, the Non-Party shall  
 2 bear the burden and expense of seeking protection in this court of its Protected Material.

3 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

4 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
 5 Material to any person or in any circumstance not authorized under this Stipulated Protective  
 6 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the  
 7 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the  
 8 Protected Material, (c) inform the person or persons to whom unauthorized disclosures were  
 9 made of all the terms of this Order, and (d) request such person or persons to execute the  
 10 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
 12 MATERIAL

13 When a Producing Party gives notice to Receiving Parties that certain inadvertently  
 14 produced material is subject to a claim of privilege or other protection, the obligations of the  
 15 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This  
 16 provision is not intended to modify whatever procedure may be established in an e-discovery  
 17 order that provides for production without prior privilege review. Pursuant to Federal Rule of  
 18 Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a  
 19 communication or information covered by the attorney-client privilege or work product  
 20 protection, the parties may incorporate their agreement in the stipulated protective order  
 21 submitted to the court.

22 12. MISCELLANEOUS

23 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to  
 24 seek its modification by the court in the future.

25 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective  
 26 Order no Party waives any right it otherwise would have to object to disclosing or producing any  
 27 information or item on any ground not addressed in this Stipulated Protective Order. Similarly,  
 28 no Party waives any right to object on any ground to use in evidence of any of the material

1 covered by this Protective Order.

2 12.3 Export Control. Disclosure of Protected Material shall be subject to all applicable  
3 laws and regulations relating to the export of technical data contained in such Protected Material,  
4 including the release of such technical data to foreign persons or nationals in the United States or  
5 elsewhere. The Producing Party shall be responsible for identifying any such controlled technical  
6 data, and the Receiving Party shall take measures necessary to ensure compliance.

7 12.4 Filing Protected Material. Without written permission from the Designating Party  
8 or a court order secured after appropriate notice to all interested persons, a Party may not file in  
9 the public record in this action any Protected Material. A Party that seeks to file under seal any  
10 Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be  
11 filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material  
12 at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a request  
13 establishing that the Protected Material at issue is privileged, protectable as a trade secret, or  
14 otherwise entitled to protection under the law. If a Receiving Party's request to file Protected  
15 Material under seal pursuant to Civil Local Rule 79-5(e) is denied by the court, then the  
16 Receiving Party may file the Protected Material in the public record pursuant to Civil Local  
17 Rule 79-5(e)(2) unless otherwise instructed by the court.

18 13. FINAL DISPOSITION

19 Within 60 days after the final disposition of this action, as defined in paragraph 4,  
20 each Receiving Party must return all Protected Material to the Producing Party or destroy such  
21 material. As used in this subdivision, "all Protected Material" includes all copies, abstracts,  
22 compilations, summaries, and any other format reproducing or capturing any of the Protected  
23 Material. Whether the Protected Material is returned or destroyed, the Receiving Party must  
24 submit a written certification to the Producing Party (and, if not the same person or entity, to the  
25 Designating Party) by the 60-day deadline that (1) identifies (by category, where appropriate) all  
26 the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has  
27 not retained any copies, abstracts, compilations, summaries or any other format reproducing or  
28 capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to

1 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,  
2 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work  
3 product, and consultant and expert work product, even if such materials contain Protected  
4 Material. Any such archival copies that contain or constitute Protected Material remain subject to  
5 this Protective Order as set forth in Section 4 (DURATION).

6  
7 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

8 DATE: December 16, 2015 PROMETHEUS PARTNERS LLP  
9 EDUARDO G. ROY

10  
11 By: /s/ Eduardo G. Roy  
EDUARDO G. ROY

12 Attorneys for Plaintiff  
13 Daniel Norcia

14 DATE: December 16, 2015 PAUL HASTINGS LLP  
15 JOHN P. PHILLIPS

16  
17 By: /s/ John P. Phillips\*  
JOHN P. PHILLIPS

18 Attorneys for Defendants  
19 Samsung Telecommunications America, LLC, and  
Samsung Electronics America, Inc.

20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21  
22 DATE: \_\_\_\_\_  
23 The Honorable James Donato  
24 United States District Judge

25 \*Pursuant to Local Rule 5-1(i)(3), the undersigned filer of this Stipulated Protective Order  
26 attests that concurrence in the Stipulated Protective Order has been obtained from each of the  
27 other signatories, which shall serve in lieu of their signatures.  
28



EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_  
 [print or type full address], declare under penalty of perjury that I have read in its entirety and  
 understand the Stipulated Protective Order that was issued by the United States District Court for  
 the Northern District of California on [date] in the case of Norcia v. Samsung  
 Telecommunications America, LLC, and Samsung Electronics America, Inc., Case No. 3:14-cv-  
 00582-JD. I agree to comply with and to be bound by all the terms of this Stipulated Protective  
 Order and I understand and acknowledge that failure to so comply could expose me to sanctions  
 and punishment in the nature of contempt. I solemnly promise that I will not disclose in any  
 manner any information or item that is subject to this Stipulated Protective Order to any person or  
 entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for  
 the Northern District of California for the purpose of enforcing the terms of this Stipulated  
 Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ [print or type full name] of  
 \_\_\_\_\_ [print or type full address and telephone  
 number] as my California agent for service of process in connection with this action or any  
 proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_  
 [printed name]

Signature: \_\_\_\_\_  
 [signature]